THE HON'BLE SRI JUSTICE C.V. RAMULU

Monday, the 2nd day of April ,2007

W.P.No.21526 of 2006

Between:-

P. Ram Reddy … Petitioner

and

The Chairman, Agricultural
Market Committee, Office at
Osman Gunj, Hyderabad-12
and others … Respondents

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.21526 of 2006

ORAL ORDER:

This Writ Petition is filed seeking a Mandamus declaring the action of the 1st respondent in issuing Proceedings No.AMCH/A&RI/A/2000-01, dated 23-9-2006 seeking eviction of the petitioner from shop No.35 (old No.51) at Gudimalkapur Vegetable Market, Hyderabad, as arbitrary, illegal, contrary to law and principles of natural justice.

It appears, earlier, the 4th respondent filed Writ Petition No.4399 of 2000 before this Court and the same was allowed on 7-7-2006 holding that the impugned Order therein i.e. change in the allotment of shop from No.56 in Platform No.1 to Shop No.66 in Platform No.2 was in gross violation of principles of natural justice; therefore, the same was liable to be set aside. It appears, in pursuance of the above Order, the impugned Order dated 23-9-2006 seems to have been passed by the 1st respondent directing the petitioner herein to vacate shop No.35 at Gudimalkapur Vegetable Market and handover the same to the Market Committee within 15 days from the date of receipt of the notice and informed that the petitioner herein is allotted shop No.33, at platform No.1 of Gudimalkapur Market, which is vacant.

It is the contention of the learned counsel for the petitioner that the impugned Order was passed without any notice to him and without making him a party to the proceedings in Writ Petition No.4399 of 2000; therefore, the same is arbitrary and illegal and as such, it is liable to be set aside.

The Order passed in Writ Petition No.4399 of 2000 attained

finality. While the respondents are trying to implement the order passed by this Court in Writ Petition No.4399 of 2000, the present Writ Petition is filed and stay was obtained. Granting of stay by this Court, in this Writ Petition, would amount to circumventing the order passed by this Court in Writ Petition No.4399 of 2000. The best course left open for the petitioner is either to file a Writ Appeal against the Judgment in Writ Petition No.4399 of 2000 or a review petition therein, since he was not made a party. Instead of that, the petitioner filed this Writ Petition and obtained interim stay. I am of the opinion that this amount to circumventing the order passed by this Court earlier in W.P.No.4399 of 2000. Therefore, the interim stay granted by this Court on 18-10-2006 is liable to be vacated and is accordingly vacated.

However, learned counsel for the petitioner states that since the impugned Order is passed without any notice to the petitioner and contrary to the principles of natural justice, the same also must go. In the circumstances, I deem it appropriate to direct respondents 1 to 3 to consider the case of the petitioner for allotment of shop No.36 at platform No.1 or any other appropriate shop after putting all the concerned parties on notice. This exercise shall be done within a period of three weeks from the date of receipt of a copy of this order. Till such time, the petitioner shall be allowed to occupy shop No.33 in platform No.1 of Gudimalkapur Vegetable Market, Hyderabad.

With the above directions, the Writ Petition is disposed of. No order as to costs.

02-4-2007

Office to despatch
copies by Tomorrow
(B.O.)

prk